

5/22/15

Cooperating Agency meeting

**Present:**

ACOE: Sheila Newman, Jason Berkner

PacRim: Joe Lucas, Dan Graham, Patty McGrath (NEPA advisor), Karen Bennett (legal counsel)

NVT/NARF: Heather Kendall-Miller, Rob Rosenfeld, Shay Elbaum, Allison MacEwan

EPA: Jamey Stoddard, Matt LaCroix, Andre Szalay, Michael Szerlog, Eric Peterson, Kerryann Weaver (EPA Region 5)

State of Alaska: Marie Steele (ADNR), Jennifer Keese (ADNR), Kate Harper (ADF&G), Kyle Mosell (ADNR), Tim Pilon (ADEC), Ruth Heese (Department of Law)

SHPO: Shina DuVall, Judy Bittner

NMFS: Sara Young

FWS: Soch Lor

AECOM: Kathy Tung, Gary Reimer, John Isaacs

**Introductions**

**Project Update:**

Sheila begins with an overview – what's been happening since CA meetings went on hiatus?

- Internal review in the ACOE on why this EIS has had so little progress.
- There's no established process in Alaska for coordinating the federal and state coal mine permitting processes. Coordinating is common in the lower 48. ACOE and State have had extensive talks about coordinating the processes, resulting in flow chart (handed out). A SMCRA permit is needed before a 404 permit can be issued.
- AECOM is preparing the EIS and the administrative record. They're still working on getting up to date on all the documents and identifying data gaps.
- Regarding cultural resources: the project has grown since scoping, but all of the concerns from the scoping period are still present.
- The next project milestone that involves the CAs is the PDSEIS, which now has a 60-day review period.
- This meeting will be about process updates and setting expectations for each of the CAs and applicant, not about the substance of the project. Notes that the SEIS is not a permit decision and does not contain decision documents.

## SEIS Status and Schedule:

Gary summarizes the status and schedule of the EIS work. Flowchart handout shows the current timeline. This is a standard NEPA process, and we're still early in the development of the preliminary draft. Heather asks what's happened with the comments that have been submitted to date; Gary says they're being incorporated and will be on the Sharepoint site (=extranet) soon.

Sheila has put a suggested CA meeting on the flowchart, to update new players and have substantive discussion of the project and 404/SMCRA permits. She wants PacRim and the State to be fully involved in this meeting so that we can get into the SMCRA process. Will this be worthwhile? (Jamey and Heather: Yes.) Tentatively set for June or early July. Sheila notes that she doesn't anticipate having the 404(b)(1) analysis, final mitigation plan, or 106 analysis done at the preliminary draft stage, but hopes to have them by the draft stage.

Jamey asks: do you anticipate incorporating determinations, like the LEDPA, into the schedule? Sheila's not sure yet; it's too premature to tell. Rob asks when they'll be able to tell and how dialogue on it would take place, is concerned that the timeline doesn't allow for CA involvement; Sheila isn't sure yet, but probably between the preliminary draft and the draft, will talk to teams on other EIS projects to determine how it's usually done. Dan points out that the LEDPA relates to the *permitting process*, not the EIS, so there's no CA role in that determination.

### § 106/TCL discussion:

- Sheila intends to reconvene the 106 working group. Will discuss timing and resources with Eric.
- Sheila wants PacRim to have the TCL report, believes it's necessary for the working group to have access to that info. Either the tribe can send it or ACOE can ask permission from ACHP to send it. Heather agrees to mail it, but points out that the document was produced for the TCL determination, not for the working group, and that it's a final document not subject to revision by the working group.
- Eric can only spend 4 hours/week on Alaska projects right now. Sheila is trying to figure out how to work with that. Maybe bringing him up here for a condensed period of time. Suggestions?
  - Shina: It would be good to keep Eric on the project, for continuity. We can make ourselves available. But it's hard to say if bringing him up for a month would really be helpful.
  - Judy: Intensive work sessions of some sort would probably be helpful.
  - Sheila: Let's meet separately to discuss.
  - Rob: Would an in-person meeting in the first two weeks of June be possible?
    - Sheila's not sure – we'll see.

Sheila wants future CA meetings to be targeted at specific issues. CAs can request meetings on specific comments. Requests that CAs send comments formally, on agency letterhead, so that they can be tracked by AECOM and sorted by agency. This does not foreclose staff-level comments and emails, but only comments formally sent will be tracked. Agencies do not need to reformat comments that have already been submitted. Kyle Mosell: Comments from state agencies will be consolidated and all sent from ADNR. Marie Steele will manage this.

John Isaacs on commenting process/AECOM's role: (1) NEPA requires that *substantive* comments be addressed. AECOM will provide guidance on how to make your comments substantive. (2) COA and AECOM will only track formally submitted CA comments, not staff-level individual communications or comments.

### **Sharepoint site update:**

AECOM gives a Sharepoint site update. Kathy has updated it recently. Newly uploaded documents: Department of Army application, 2011 MOU, JDR and Existing Roads JDR, 2014 FA, SEIS Plan of Study. Contact Kathy if any issues. Each CA should send updated contact information to Gary, and AECOM will send out email notifications when new items are uploaded. Sheila notes that some documents will not be on the Sharepoint, e.g. Health Impact Assessment and TCL report.

### **Next Steps:**

Dan Graham gives an update on the SMCRA process and Requests for Additional Information (RFAs) from AECOM. PacRim is mostly caught up with the RFAs. 2/3 parts of the SMCRA application have been submitted. The remaining part is the mine operation plan, which still requires an updated fish protection plan, reclamation plan, and drainage control. He anticipates these will be done by the end of next week and the SMCRA application submitted a couple of weeks later. Once the SMCRA app is submitted, the state has 60 days to review it for completeness. If the state requests more information, which they almost always do, that time is extended. Once they've determined it's complete, it's uploaded to a state site and the public comment period begins. So at the earliest, we'll have a complete SMCRA application in August.

Gary: RFAs will be uploaded to the Sharepoint site.

John: RFAs are a formal part of the NEPA process; our staff suggests them to ACOE, and ACOE decides whether to pass them on to PacRim.

Next meeting: tentatively the last week of June or beginning of July, AECOM will host again, may be webinar. Sheila will discuss 404, Dan and the state will discuss SMCRA. Sheila emphasizes that this process is just a small part of the coal permitting process.

### **Questions?**

Rob: What about the questions Heather and Jamey emailed? Sheila doesn't want to get into the project details at this meeting – Matt suggests addressing them at the upcoming meeting on 404 and SMCRA details. Heather says she doesn't need hers addressed right now; they have mostly been already. Sheila looks at some of Jamey's questions:

- On the connection between ASCMCRA and 404 compensatory mitigation: they're different but can work well together. She can't address the details at this point.
- On whether ASCMCRA bonding will be used as a financial assurance mechanism for 404 compensatory mitigation: No.
- A new functional assessment has been uploaded to the Sharepoint site.
- We're not at a point where we can address the other questions.

Rob: When will alternatives be discussed? Points out that in study plan, ACOE is to work closely with agencies to develop alternatives, but the study plan also says that alternatives have been mostly completed. Doesn't recall that we've had that conversation; just remembers some alternatives being dismissed out of hand as not economically feasible, and EPA requesting a table with that analysis.

- Dan says there've been alternatives meetings with the agencies for years, and agencies have had significant input.
- Sheila: I'm very familiar with the process for determining what alternatives are economically feasible for coal, can easily produce a matrix. The key point is that we asked PacRim to look at underground mining alternatives, which no one had yet asked them to do. There's been a lot of work on alternatives and you can comment on them when they appear in the PDSEIS. We can put those historic documents on the Sharepoint site. (Rob and Heather would like this.)
- Rob: Is each component addressed separately in the alternatives analysis? e.g., mine footprint considered separately from or together with conveyor?
- Dan: Yes. We've addressed every component individually.

John explains AECOM team, URS acquisition. The team is composed of legacy employees from both companies, extensive experience in Alaska. Two team members even worked on initial EIS: Dave Erikson and Rollin Daggett.

Rob: Question for Joe and Dan. The tribe's had some turnover lately with elections and we can't get a hold of some documents, including the 2013 field study of sites along the transportation corridor. Has that been sent to the tribe or is it still in draft form? Joe says it's been finalized and sent to all CAs, including the tribe. Rob asks if it can be sent to Heather; Heather says she'll look for it in her email first. Joe will send it if a formal request is made.

Rob: Any updates on the Health Impact Assessment?

- Kyle: The raw baseline data from Sarah Yoder and Paul Anderson at Health and Social Services was provided to ACOE and AECOM a couple of weeks ago. Note that this is confidential data. HSS plans to release the assessment concurrently with the DSEIS and ASCMCRA public notices.
- Patty asks if it can be made available with the PDSEIS instead; Kyle will look into it.

**End of meeting.**